

**PCT**

**NOTIFICATION OF ELECTION**

(PCT Rule 61.2)

From the INTERNATIONAL BUREAU

To:

Assistant Commissioner for Patents  
United States Patent and Trademark  
Office  
Box PCT  
Washington, D.C.20231  
ÉTATS-UNIS D'AMÉRIQUE

in its capacity as elected Office

Date of mailing (day/month/year)

10 September 1999 (10.09.99)

International application No.

PCT/US98/27268

Applicant's or agent's file reference

06975/029WO6

International filing date (day/month/year)

22 December 1998 (22.12.98)

Priority date (day/month/year)

24 December 1997 (24.12.97)

Applicant

CARBONE, Kenneth et al

1. The designated Office is hereby notified of its election made:



in the demand filed with the International Preliminary Examining Authority on:

23 July 1999 (23.07.99)



in a notice effecting later election filed with the International Bureau on:

2. The election ☒ was



was not

made before the expiration of 19 months from the priority date or, where Rule 32 applies, within the time limit under Rule 32.2(b).

The International Bureau of WIPO  
34, chemin des Colombettes  
1211 Geneva 20, Switzerland

Facsimile No.: (41-22) 740.14.35

Authorized officer

R. Forax

Telephone No.: (41-22) 338.83.38

# PCT

## INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference <b>06975/029W06</b>	<b>FOR FURTHER ACTION</b> see Notification of Transmittal of International Search Report (Form PCT/ISA/220) as well as, where applicable, item 5 below.	
International application No. <b>PCT/US 98/ 27268</b>	International filing date (day/month/year) <b>22/12/1998</b>	(Earliest) Priority Date (day/month/year) <b>24/12/1997</b>
Applicant <b>AMERICA ONLINE, INC. et al.</b>		

This International Search Report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This International Search Report consists of a total of 2 sheets.

☒ It is also accompanied by a copy of each prior art document cited in this report.

### 1. Basis of the report

a. With regard to the **language**, the international search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ the international search was carried out on the basis of a translation of the international application furnished to this Authority (Rule 23.1(b)).

b. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international search was carried out on the basis of the sequence listing :

☐ contained in the international application in written form.

☐ filed together with the international application in computer readable form.

☐ furnished subsequently to this Authority in written form.

☐ furnished subsequently to this Authority in computer readable form.

☐ the statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.

☐ the statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished

2. ☐ **Certain claims were found unsearchable** (See Box I).

3. ☐ **Unity of invention is lacking** (see Box II).

4. With regard to the **title**,

☒ the text is approved as submitted by the applicant.

☐ the text has been established by this Authority to read as follows:

5. With regard to the **abstract**,

☒ the text is approved as submitted by the applicant.

☐ the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box III. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. The figure of the **drawings** to be published with the abstract is Figure No.

☒ as suggested by the applicant.

☐ because the applicant failed to suggest a figure.

☐ because this figure better characterizes the invention.

4

☐ None of the figures.

## INTERNATIONAL SEARCH REPORT

International Application No

/US 98/27268

**A. CLASSIFICATION OF SUBJECT MATTER**  
IPC 6 H04L29/06

According to International Patent Classification (IPC) or to both national classification and IPC

**B. FIELDS SEARCHED**Minimum documentation searched (classification system followed by classification symbols)  
IPC 6 H04L

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

**C. DOCUMENTS CONSIDERED TO BE RELEVANT**

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
P,X	EP 0 862 304 A (IBM) 2 September 1998  see abstract see page 2, column 1, line 50 - column 2, line 21 see page 2, column 2, line 39 - line 44 see page 9, column 15, line 39 - column 16, line 12 see page 9, column 16, line 26 - line 29 -----	1,2,4,5, 37,38, 40,41
A	WO 96 42145 A (NOKIA OY AB ;SALOMAEKI ARI (FI)) 27 December 1996 see abstract see page 5, line 24 - page 6, line 4 see page 6, line 37 - page 8, line 4 -----	1-60

☐ Further documents are listed in the continuation of box C.☒ Patent family members are listed in annex.

## \* Special categories of cited documents :

"A" document defining the general state of the art which is not considered to be of particular relevance

"E" earlier document but published on or after the international filing date

"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)

"O" document referring to an oral disclosure, use, exhibition or other means

"P" document published prior to the international filing date but later than the priority date claimed

"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.

"&amp;" document member of the same patent family

Date of the actual completion of the international search

10 June 1999

Date of mailing of the international search report

25/06/1999

Name and mailing address of the ISA

European Patent Office, P.B. 5818 Patentlaan 2  
NL - 2280 HV Rijswijk  
Tel. (+31-70) 340-2040, Tx. 31 651 epo nl,  
Fax: (+31-70) 340-3016

Authorized officer

Adkhis, F

# INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No

US 98/27268

Patent document cited in search report		Publication date	Patent family member(s)		Publication date
EP 0862304	A	02-09-1998	JP	10240602 A	11-09-1998
<hr/>					
WO 9642145	A	27-12-1996	FI	952879 A	13-12-1996
			AU	6127796 A	09-01-1997
			EP	0882335 A	09-12-1998
<hr/>					

JCP

PCT

NOTICE INFORMING THE APPLICANT OF THE  
COMMUNICATION OF THE INTERNATIONAL  
APPLICATION TO THE DESIGNATED OFFICES

(PCT Rule 47.1(c), first sentence)

From the INTERNATIONAL BUREAU

To:

PHILLIPS, John, C.  
Fish & Richardson P.C.  
601 Thirteenth Street, N.W.  
Washington, DC 20005  
ÉTATS-UNIS D'AMÉRIQUE

\* No Docketing Required \*

Reviewed By Practice Systems

Initials: *JS*

Reviewed By Billing Secretary

Initials: \_\_\_\_\_

Date of mailing (day/month/year)

08 July 1999 (08.07.99)

JUL 19 1999

Applicant's or agent's file reference

06975/029WO6

FISH & RICHARDSON, P.C.  
WASHINGTON, D.C.

IMPORTANT NOTICE

International application No.

PCT/US98/27268

International filing date (day/month/year)

22 December 1998 (22.12.98)

Priority date (day/month/year)

24 December 1997 (24.12.97)

Applicant

AMERICA ONLINE, INC. et al

1. Notice is hereby given that the International Bureau has communicated, as provided in Article 20, the international application to the following designated Offices on the date indicated above as the date of mailing of this Notice:

AU,CN,EP,IL,JP,KP,KR,US

In accordance with Rule 47.1(c), third sentence, those Offices will accept the present Notice as conclusive evidence that the communication of the international application has duly taken place on the date of mailing indicated above and no copy of the international application is required to be furnished by the applicant to the designated Office(s).

2. The following designated Offices have waived the requirement for such a communication at this time:

AL,AM,AP,AT,AZ,BA,BB,BG,BR,BY,CA,CH,CU,CZ,DE,DK,EA,EE,ES,FI,GB,GD,GE,GH,GM,HR,HU,  
ID,IN,IS,KE,KG,KZ,LC,LK,LR,LS,LT,LU,LV,MD,MG,MK,MN,MW,MX,NO,NZ,OA,PL,PT,RO,RU,SD,  
SE,SG,SI,SK,SL,TJ,TM,TR,TT,UA,UG,UZ,VN,YU,ZW

The communication will be made to those Offices only upon their request. Furthermore, those Offices do not require the applicant to furnish a copy of the international application (Rule 49.1(a-bis)).

3. Enclosed with this Notice is a copy of the international application as published by the International Bureau on

08 July 1999 (08.07.99) under No. WO 99/34555

**REMINDER REGARDING CHAPTER II (Article 31(2)(a) and Rule 54.2)**

If the applicant wishes to postpone entry into the national phase until 30 months (or later in some Offices) from the priority date, a **demand for international preliminary examination** must be filed with the competent International Preliminary Examining Authority before the expiration of 19 months from the priority date.

It is the applicant's sole responsibility to monitor the 19-month time limit.

Note that only an applicant who is a national or resident of a PCT Contracting State which is bound by Chapter II has the right to file a demand for international preliminary examination.

**REMINDER REGARDING ENTRY INTO THE NATIONAL PHASE (Article 22 or 39(1))**

If the applicant wishes to proceed with the international application in the **national phase**, he must, within 20 months or 30 months, or later in some Offices, perform the acts referred to therein before each designated or elected Office.

For further important information on the time limits and acts to be performed for entering the national phase, see the Annex to Form PCT/IB/301 (Notification of Receipt of Record Copy) and Volume II of the PCT Applicant's Guide.

The International Bureau of WIPO  
34, chemin des Colombettes  
1211 Geneva 20, Switzerland

Facsimile No. (41-22) 740.14.35

Authorized officer

J. Zahra

Telephone No. (41-22) 338.83.38

## T COOPERATION TREATY

FGB/JCP

PCT

From the INTERNATIONAL BUREAU

INFORMATION CONCERNING ELECTED  
OFFICES NOTIFIED OF THEIR ELECTION

(PCT Rule 61.3)

To:

PHILLIPS, John, C.  
Fish & Richardson P.C.  
601 Thirteenth Street, N.W.  
Washington, DC 20005  
ÉTATS-UNIS D'AMÉRIQUE

Date of mailing (day/month/year)

10 September 1999 (10.09.99)

Applicant's or agent's file reference

06975/029W06

## IMPORTANT INFORMATION

International application No.

PCT/US98/27268

International filing date (day/month/year)

22 December 1998 (22.12.98)

Priority date (day/month/year)

24 December 1997 (24.12.97)

Applicant

AMERICA ONLINE, INC. et al

1. The applicant is hereby informed that the International Bureau has, according to Article 31(7), notified each of the following Offices of its election:

AP : GH, GM, KE, LS, MW, SD, SZ, UG, ZW

EP : AT, BE, CH, CY, DE, DK, ES, FI, FR, GB, GR, IE, IT, LU, MC, NL, PT, SE

National : AU, BG, BR, CA, CN, CZ, DE, GB, IL, JP, KP, KR, MN, NO, NZ, PL, RO, RU, SE, SK, US

2. The following Offices have waived the requirement for the notification of their election; the notification will be sent to them by the International Bureau only upon their request:

EA : AM, AZ, BY, KG, KZ, MD, RU, TJ, TM

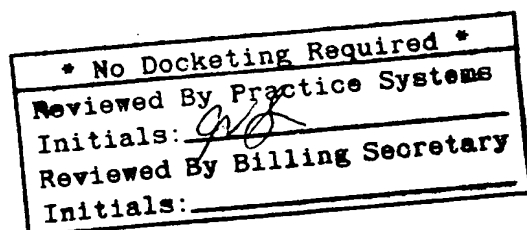
OA : BF, BJ, CF, CG, CI, CM, GA, GN, GW, ML, MR, NE, SN, TD, TG

National : AL, AM, AT, AZ, BA, BB, BY, CH, CU, DK, EE, ES, FI, GD, GE, GH, GM, HR, HU, ID, IN,  
IS, KE, KG, KZ, LC, LK, LR, LS, LT, LU, LV, MD, MG, MK, MW, MX, PT, SD, SG, SI, SL, TJ, TM, TR,  
TT, UA, UG, UZ, VN, YU, ZW

3. The applicant is reminded that he must enter the "national phase" before the expiration of 30 months from the priority date before each of the Offices listed above. This must be done by paying the national fee(s) and furnishing, if prescribed, a translation of the international application (Article 39(1)(a)), as well as, where applicable, by furnishing a translation of any annexes of the international preliminary examination report (Article 36(3)(b) and Rule 74.1).

Some offices have fixed time limits expiring later than the above-mentioned time limit. For detailed information about the applicable time limits and the acts to be performed upon entry into the national phase before a particular Office, see Volume II of the PCT Applicant's Guide.

The entry into the European regional phase is postponed until 31 months from the priority date for all States designated for the purposes of obtaining a European patent.



FISH & RICHARDSON, P.C.  
WASHINGTON, D.C.  
PRACTICE SYSTEMS

The International Bureau of WIPO  
34, chemin des Colombettes  
1211 Geneva 20, Switzerland

Facsimile No. (41-22) 740.14.35

Authorized officer:

R. Forax

Telephone No. (41-22) 338.83.38

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 06975/029WO6	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/US98/27268	International filing date (day/month/year) 22/12/1998	Priority date (day/month/year) 24/12/1997
International Patent Classification (IPC) or national classification and IPC H04L29/06		
Applicant AMERICA ONLINE, INC. et al.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.



2. This REPORT consists of a total of 6 sheets, including this cover sheet.

- ☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☒ Certain defects in the international application
- VIII ☒ Certain observations on the international application

Date of submission of the demand  23/07/1999	Date of completion of this report  10.04.00
Name and mailing address of the international preliminary examining authority:   European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized officer  Haas, H  Telephone No. +49 89 2399 8800  

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT**

International application No. PCT/US98/27268

**I. Basis of the report**

1. This report has been drawn on the basis of *(substitute sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to the report since they do not contain amendments.)*:

**Description, pages:**

1-18 as originally filed

**Claims, No.:**

1-69 as originally filed

**Drawings, sheets:**

1/11-11/11 as originally filed

2. The amendments have resulted in the cancellation of:

- ☐ the description, pages:  
☐ the claims, Nos.:  
☐ the drawings, sheets:

3. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)):

4. Additional observations, if necessary:



# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No. PCT/US98/27268

## V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

### 1. Statement

Novelty (N)	Yes:	Claims	1-69
	No:	Claims	
Inventive step (IS)	Yes:	Claims	
	No:	Claims	1-69
Industrial applicability (IA)	Yes:	Claims	1-69
	No:	Claims	

### 2. Citations and explanations

**see separate sheet**

## VII. Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

**see separate sheet**

## VIII. Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

**see separate sheet**

SECTION V

1. The priority documents of the application are presently not available at the examining office. It is therefore provisionally assumed that the claimed priority be valid. Otherwise document D2 (EP-A-0 862 304) would have to be considered relevant with respect to novelty for claims 1 and 37 and with respect to inventive step for claims 10, 17, 28, 45, 51 and 61.
2. With respect to the subject-matter of claim 1, document D1 (WO-A-96 42145) discloses a method of asynchronously transferring data objects by:
  - transmitting to a client an identifier for a data objects (D1, claim 18);
  - transferring between host and client a data frame including an identifier and at least a portion of the corresponding data object (D1, claim 19); and
  - repeating the data frame transfers until the data object has been transferred (D1, abstract).

Contrary to the applicant's arguments, no feature in present claim 1 relates to the interleaving of uploads and downloads for one client device, claim 1 rather refers to downloads between host devices and client devices in general. Furthermore the interleaving defined in dependent claim 6 is not restricted to a single client and could therefore be interpreted as interleaving at host devices (for example servers), which are generally able to communicate with a plurality of clients at the same time.

Secondly, claim 1 does also not explicitly define a full-duplex data communication system. The use of the known method in a full-duplex communication system could, however, also not be considered inventive.

The present application does therefore not satisfy the criterion set forth in Article 33(3) PCT because the subject-matter of Claim 1 does not involve an inventive step (Rule 65(1)(2) PCT).

The same applies to independent claim 37, containing the same features in terms of program instructions contained in a computer readable medium, as well as to

independent claims 10 and 45, where the additional feature of the delivery of a routing path to a client is standard practice.

The remaining independent claims 17, 27, 51 and 61 basically recite commonly used protocol features, rendered obvious for example from the FTP standard (FTP: File Transfer Protocol)) such as data frame requests issued by a client (claims 17, 51) or the process handling (claims 28, 61). These features are also common Internet practice.

The present application does therefore not satisfy the criterion set forth in Article 33(3) PCT because the subject-matter of the above claims does also not involve an inventive step (Rule 65(1)(2) PCT).

3. The subject-matter of the dependent claims only covers implementation details which are either rendered obvious by documents and existing protocol standards or lie fully within the normal capabilities of a person skilled in the art.

Therefore the dependent claims do not add anything of inventive significance to the respective main claims.

## SECTION VII

The independent claims are not in the two-part form in accordance with Rule 6.3(b) PCT, which in the present case would be appropriate, with those features known in combination from the prior art being placed in a preamble (Rule 6.3(b)(i) PCT) and with the remaining features being included in a characterising part (Rule 6.3(b)(ii) PCT).

The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).

Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT - SEPARATE SHEET**

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International application No. PCT/US98/27268

disclosed in the documents D1 and D2 are not mentioned in the description, nor are these documents identified therein.

**SECTION VIII**

The various definitions of the subject-matter given in the independent Claims are such that the claims as a whole are not clear and concise, contrary to Article 6 PCT. The claims should include only the minimum necessary number of independent claims in any one category, with dependent claims as appropriate (Rule 6.4(a)-(c) PCT).

In the present case it is considered appropriate to use only one independent claim in any category.

This applies also with respect to unity, as it is not clear at present if all independent claims relate to the same subject-matter, in particular as claims 28 and 61 deal mainly with the establishment of a session protocol defining an upload or a download.

# PATENT COOPERATION TREATY

JCP

From the:  
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

FAX: (202) 783.2331

To:

PHILLIPS, J.  
Fish & Richardson P.C.  
601 Thirteenth Street, N.W.  
Washington, D.C. 20005  
ETATS-UNIS D'AMERIQUE

\* No Docketing Required \*

Reviewed By Practice Systems

Initials: *JRS*

Reviewed By Billing Secretary

Initials: \_\_\_\_\_

Date of mailing  
(day/month/year)

PCT

WRITTEN OPINION

(PCT Rule 66)

*Fax*

( 22. 09. 99 )

Applicant's or agent's file reference

**06975/029WO6**

**REPLY DUE**

**within 3 month(s)**

from the above date of mailing

International application No.

PCT/US98/27268

International filing date (day/month/year)

22/12/1998

Priority date (day/month/year)

24/12/1997

International Patent Classification (IPC) or both national classification and IPC

H04L29/06

Applicant

AMERICA ONLINE, INC. et al.

FISH & RICHARDSON  
WASHINGTON, D.C.  
PRACTICE SYSTEMS

1. This written opinion is the **first** drawn up by this International Preliminary Examining Authority.

2. This opinion contains indications relating to the following items:

- I ☒ Basis of the opinion
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain document cited
- VII ☒ Certain defects in the international application
- VIII ☒ Certain observations on the international application

3. The applicant is hereby **invited to reply** to this opinion.

**When?** See the time limit indicated above. The applicant may, before the expiration of that time limit, request this Authority to grant an extension, see Rule 66.2(d).

**How?** By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

**Also:** For an additional opportunity to submit amendments, see Rule 66.4.  
For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis.  
For an informal communication with the examiner, see Rule 66.6.

**If no reply is filed**, the international preliminary examination report will be established on the basis of this opinion.

4. The final date by which the international preliminary examination report must be established according to Rule 69.2 is: **24/04/2000**.

Name and mailing address of the international preliminary examining authority:



European Patent Office  
D-80298 Munich  
Tel. +49 89 2399 - 0 Tx: 523656 epmu d  
Fax: +49 89 2399 - 4465

Authorized officer / Examiner

Haas, H

Formalities officer (incl. extension of time limits)

Ahrens, R

Telephone No. +49 89 2399 8136



**I. Basis of the opinion**

1. This opinion has been drawn on the basis of (*substitute sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed".*):

**Description, pages:**

1-18 as originally filed

**Claims, No.:**

1-69 as originally filed

**Drawings, sheets:**

1/11-11/11 as originally filed

2. The amendments have resulted in the cancellation of:

- ☐ the description, pages:  
☐ the claims, Nos.:  
☐ the drawings, sheets:

3. This opinion has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)):

4. Additional observations, if necessary:

**V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. Statement**

Novelty (N)	Claims
Inventive step (IS)	Claims 1-69
Industrial applicability (IA)	Claims

**2. Citations and explanations**

**see separate sheet**

**VII. Certain defects in the international application**

The following defects in the form or contents of the international application have been noted:

**see separate sheet**

**VIII. Certain observations on the international application**

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

**see separate sheet**

**SECTION V**

1. The priority documents of the application are presently not available at the examining office. It is therefore provisionally assumed that the claimed priority be valid. Otherwise document D2 (EP-A-0 862 304) would have to be considered relevant with respect to novelty for claims 1 and 37 and with respect to inventive step for claims 10, 17, 28, 45, 51 and 61.
2. With respect to the subject-matter of claim 1, document D1 (WO-A-96 42145) discloses a method of asynchronously transferring data objects by:
  - transmitting to a client an identifier for a data objects (D1, claim 18);
  - transferring between host and client a data frame including an identifier and at least a portion of the corresponding data object (D1, claim 19); and
  - repeating the data frame transfers until the data object has been transferred (D1, abstract).

There remains only the difference that according to claim 1 a plurality of identifiers are used, whereas D1 only shows a single file descriptor for a data group. This simple modification lies, however, fully within the normal capabilities of a person, skilled in the art.

The present application does thus not satisfy the criterion set forth in Article 33(3) PCT because the subject-matter of Claim 1 does not involve an inventive step (Rule 65(1)(2) PCT).

The same applies to independent claim 37, containing the same features in terms of program instructions contained in a computer readable medium.

The remaining independent claims 10, 17, 27, 45, 51 and 61 basically recite commonly used protocol features, rendered obvious for example from the FTP standard (FTP: File Transfer Protocol)) such as data frame requests issued by a client (claims 17, 51) or the transfer of routing information and process handling (claims 10, 28, 45, 61).



The present application does therefore not satisfy the criterion set forth in Article 33(3) PCT because the subject-matter of the above claims does also not involve an inventive step (Rule 65(1)(2) PCT).

3. The subject-matter of the dependent claims only covers implementation details which are either rendered obvious by documents and existing international protocol standards or lie fully within the normal capabilities of a person skilled in the art.

Therefore the dependent claims do not add anything of inventive significance to the respective main claims.

## SECTION VII

If a new set of claims should be filed, it is considered appropriate to draft the independent claims in the two-part form as required by Rule 6.3(b) PCT, whereby the features known from document D1 should be placed in the preamble.

To meet the requirements of Rule 5.1(a)(ii) PCT, documents D1 and D2 should be identified in the description and the relevant background art disclosed therein should be briefly discussed.

The applicant should bring the description into conformity with the new claims; care should be taken during revision, especially of the introductory portion including any statement of problem or advantage, not to add subject-matter which extends beyond the content of the application as originally filed, (Article 34(2)(b) PCT).

Reference signs in parentheses should be inserted in the claims to increase their intelligibility, Rule 6.2(b) PCT. This applies to both the preamble and characterising portion.

SECTION VIII

**The various definitions of the subject-matter given in the independent Claims are such that the claims as a whole are not clear and concise, contrary to Article 6 PCT. The claims should include only the minimum necessary number of independent claims in any one category, with dependent claims as appropriate (Rule 6.4(a)-(c) PCT).**

In the present case it is considered appropriate to use only one independent claim in any category.



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One of these labels should be affixed to a prominent place in the upper part of the letter or form etc. which you are filing.

# PATENT COOPERATION TREATY

FEB/JFH

Fax No: 202-783-2331

From the  
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:

PHILLIPS, J.  
Fish & Richardson P.C.  
601 Thirteenth Street, N.W.  
Washington, D.C. 20005  
ETATS-UNIS D'AMERIQUE

**RECEIVED**

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- 7 pages -

NOTIFICATION OF TRANSMITTAL OF  
THE INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT

(PCT Rule 7)

Confirmation  
**FAX-Bestätigung**

Date of mailing  
(day/month/year)

(10.04.00) 14.04.00

Applicant's or agent's file reference  
**06975/029WO6**

**IMPORTANT NOTIFICATION**

International application No.  
**PCT/US98/27268**

International filing date (day/month/year)  
**22/12/1998**

Priority date (day/month/year)  
**24/12/1997**

Applicant  
**AMERICA ONLINE, INC. et al.**

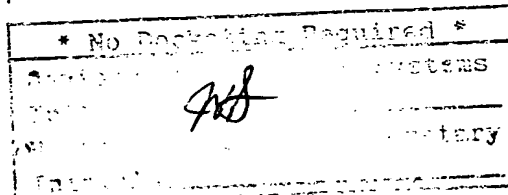
1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary examination report and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.

## 4. REMINDER

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices) (Article 39(1)) (see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.



Name and mailing address of the IPEA/

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## PCT

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 06975/029WO6	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/US98/27268	International filing date (day/month/year) 22/12/1998	Priority date (day/month/year) 24/12/1997
International Patent Classification (IPC) or national classification and IPC H04L29/06		
Applicant AMERICA ONLINE, INC. et al.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.



2. This REPORT consists of a total of 6 sheets, including this cover sheet.

- ☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☒ Certain defects in the international application
- VIII ☒ Certain observations on the international application

Date of submission of the demand  23/07/1999	Date of completion of this report  <b>1 0. 04. 00</b>
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized officer  Haas, H  Telephone No. +49 89 2399 8800 

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No. PCT/US98/27268

## I. Basis of the report

1. This report has been drawn on the basis of *(substitute sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to the report since they do not contain amendments.)*:

### Description, pages:

1-18 as originally filed

### Claims, No.:

1-69 as originally filed

### Drawings, sheets:

1/11-11/11 as originally filed

2. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

3. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)):

4. Additional observations, if necessary:

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT**

International application No. PCT/US98/27268

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

**1. Statement**

Novelty (N)	Yes:	Claims	1-69
	No:	Claims	
Inventive step (IS)	Yes:	Claims	
	No:	Claims	1-69
Industrial applicability (IA)	Yes:	Claims	1-69
	No:	Claims	

**2. Citations and explanations**

**see separate sheet**

**VII. Certain defects in the international application**

The following defects in the form or contents of the international application have been noted:

**see separate sheet**

**VIII. Certain observations on the international application**

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

**see separate sheet**

SECTION V

1. The priority documents of the application are presently not available at the examining office. It is therefore provisionally assumed that the claimed priority be valid. Otherwise document D2 (EP-A-0 862 304) would have to be considered relevant with respect to novelty for claims 1 and 37 and with respect to inventive step for claims 10, 17, 28, 45, 51 and 61.
2. With respect to the subject-matter of claim 1, document D1 (WO-A-96 42145) discloses a method of asynchronously transferring data objects by:
  - transmitting to a client an identifier for a data objects (D1, claim 18);
  - transferring between host and client a data frame including an identifier and at least a portion of the corresponding data object (D1, claim 19); and
  - repeating the data frame transfers until the data object has been transferred (D1, abstract).

Contrary to the applicant's arguments, no feature in present claim 1 relates to the interleaving of uploads and downloads for one client device, claim 1 rather refers to downloads between host devices and client devices in general. Furthermore the interleaving defined in dependent claim 6 is not restricted to a single client and could therefore be interpreted as interleaving at host devices (for example servers), which are generally able to communicate with a plurality of clients at the same time.

Secondly, claim 1 does also not explicitly define a full-duplex data communication system. The use of the known method in a full-duplex communication system could, however, also not be considered inventive.

The present application does therefore not satisfy the criterion set forth in Article 33(3) PCT because the subject-matter of Claim 1 does not involve an inventive step (Rule 65(1)(2) PCT).

The same applies to independent claim 37, containing the same features in terms of program instructions contained in a computer readable medium, as well as to



independent claims 10 and 45, where the additional feature of the delivery of a routing path to a client is standard practice.

The remaining independent claims 17, 27, 51 and 61 basically recite commonly used protocol features, rendered obvious for example from the FTP standard (FTP: File Transfer Protocol)) such as data frame requests issued by a client (claims 17, 51) or the process handling (claims 28, 61). These features are also common Internet practice.

The present application does therefore not satisfy the criterion set forth in Article 33(3) PCT because the subject-matter of the above claims does also not involve an inventive step (Rule 65(1)(2) PCT).

3. The subject-matter of the dependent claims only covers implementation details which are either rendered obvious by documents and existing protocol standards or lie fully within the normal capabilities of a person skilled in the art.

Therefore the dependent claims do not add anything of inventive significance to the respective main claims.

## SECTION VII

The independent claims are not in the two-part form in accordance with Rule 6.3(b) PCT, which in the present case would be appropriate, with those features known in combination from the prior art being placed in a preamble (Rule 6.3(b)(i) PCT) and with the remaining features being included in a characterising part (Rule 6.3(b)(ii) PCT).

The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).

Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT - SEPARATE SHEET**

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International application No. PCT/US98/27268

disclosed in the documents D1 and D2 are not mentioned in the description, nor are these documents identified therein.

**SECTION VIII**

The various definitions of the subject-matter given in the independent Claims are such that the claims as a whole are not clear and concise, contrary to Article 6 PCT. The claims should include only the minimum necessary number of independent claims in any one category, with dependent claims as appropriate (Rule 6.4(a)-(c) PCT).

In the present case it is considered appropriate to use only one independent claim in any category.

This applies also with respect to unity, as it is not clear at present if all independent claims relate to the same subject-matter, in particular as claims 28 and 61 deal mainly with the establishment of a session protocol defining an upload or a download.